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MOTION UNDER 28 USC § 2255 TO VACATE, SET ASIDE, OR CORRECT
SENTENCE BY A PERSON IN FEDERAL CUSTODY

OCT 15 2007

**CLERK, U.S. DISTRICT COURT
ANCHORAGE, A.K.**

United States District Court		District Alaska	CLERK, U.S. DISTRICT COURT ANCHORAGE, A.K.
Name of Movant WOODROW R HULL	Prisoner No. 15138-006	Case No. CR-05-00067-RRB	
Place of Confinement F.C.I. Butner-Med-1, P.O. Box 1000, Butner, NC, 27509			
UNITED STATES OF AMERICA		V. Woodrow R. HULL (name under which convicted)	
MOTION			
1. Name and location of court which entered the judgment of conviction under attack <u>U.S. District Court for the District of Alaska.</u>			
2. Date of judgment of conviction <u>December 15, 2005</u>			
3. Length of sentence <u>72 months</u>			
4. Nature of offense involved (all counts) <u>18 U.S.C. § 2422(b) - Attempted Enticement of a Minor using the internet</u>			
5. What was your plea? (Check one)			
(a) Not guilty <input checked="" type="checkbox"/>			
(b) Guilty <input type="checkbox"/>			
(c) Nolo contendere <input type="checkbox"/>			
If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, give details:			
N/A			
6. If you pleaded not guilty, what kind of trial did you have? (Check one)			
(a) Jury <input checked="" type="checkbox"/>			
(b) Judge only <input type="checkbox"/>			
7. Did you testify at the trial?			
Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>			
8. Did you appeal from the judgment of conviction?			
Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>			

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9. If you did appeal, answer the following:

(a) Name of court Ninth Circuit Court of Appeals No.06-30014

(b) Result Dismissed due to counsel failure to show cause.

(c) Date of result July 27, 2007

10. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications or motions with respect to this judgment in any federal court?

Yes ☐ No ☒

11. If your answer to 10 was "yes," give the following information:

(a) (1) Name of court N/A

(2) Nature of proceeding N/A

(3) Grounds raised N/A

(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes ☐ No ☐

(5) Result N/A

(6) Date of result N/A

(b) As to any second petition, application or motion give the same information:

(1) Name of court N/A

(2) Nature of proceeding N/A

(3) Grounds raised N/A

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- (4) Did you receive an evidentiary hearing on your petition, application or motion?
Yes ☐ No ☐

(5) Result N/A

(6) Date of result N/A

- (c) Did you appeal, to an appellate federal court having jurisdiction, the result of action taken on any petition, application or motion?

(1) First petition, etc. Yes ☐ No ☐

(2) Second petition, etc. Yes ☐ No ☐

- (d) If you did not appeal from the adverse action on any petition, application or motion, explain briefly why you did not:

N/A

12. State *concisely* every ground on which you claim that you are being held in violation of the constitution, laws or treaties of the United States. Summarize briefly the facts supporting each ground. If necessary, you may attach pages stating additional grounds and facts supporting same.

CAUTION: If you fail to set forth all ground in this motion, you may be barred from presenting additional grounds at a later date.

For your information, the following is a list of the most frequently raised grounds for relief in these proceedings. Each statement preceded by a letter constitutes a separate ground for possible relief. You may raise any grounds which you have other than those listed. However, you should raise in this motion all available grounds (relating to this conviction) on which you based your allegations that you are being held in custody unlawfully.

Do not check any of these listed grounds. If you select one or more of these grounds for relief, you must allege facts. The motion will be returned to you if you merely check (a) through (j) or any one of the grounds.

- (a) Conviction obtained by plea of guilty which was unlawfully induced or not made voluntarily or with understanding of the nature of the charge and the consequences of the plea.
(b) Conviction obtained by use of coerced confession.

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- (c) Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure.
- (d) Conviction obtained by use of evidence obtained pursuant to an unlawful arrest.
- (e) Conviction obtained by a violation of the privilege against self-incrimination.
- (f) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
- (g) Conviction obtained by a violation of the protection against double jeopardy.
- (h) Conviction obtained by action of a grand or petit jury which was unconstitutionally selected and impanelled.
- (i) Denial of effective assistance of counsel.
- (j) Denial of right of appeal.

A. Ground one: INEFFECTIVE ASSISTANCE OF APPELLATE COUNSEL.

Supporting FACTS (state *briefly* without citing cases or law) Counsel failed to perfect an appeal in this case as shown in the attached paper.

See; Mack v Smith, 659 F.2d 23(5th Cir.1981)

B. Ground two: Ineffective Assistance of Trial Counsel for Failing to Investigate evidence to Movants favor.

Supporting FACTS (state *briefly* without citing cases or law): There was evidence on a videotape from the police dashboard or reports that show that

Movant was driving in the parking lot never parked or walking.

This shows Mavant's Factual Innocence. See; Lord v Wood, 184

F.3d 1083(9th Cir.1999)

C. Ground three: Ineffective Assistance of Trial counsel for failing to move for a mistrial.

Supporting FACTS (state *briefly* without citing cases or law): It was brought to the court's attention that one of the jury members was talking about the case before deliberation. This prejudiced my right to a fair and imparcial jury. I told counsel, and counsel informed the court but DIDN'T move for a mistrial as requested by me.

See; Dyer v Calderon, 151 F.3d 970(9th Cir.1998)

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D. Ground four: **INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL FOR
FAILING TO INVESTIGATE AND CALL CORROBORATING WITNESS**

Supporting FACTS (state *briefly* without citing cases or law): I told counsel to call
the police officers that actually arrested me. They would have
testified that I was driving though the parking lot when I was
stopped and not walking as the Agent testified to.

See; Fuller v Attorney General of State of Alabama, 36 F.Supp
2d. 1323(N.D.Ala 1999). See also; Hart v Gomez, 174 F.3d 1067(9th
Cir.1999)

13. If any of the grounds listed in 12A, B, C, and D were not previously presented, state briefly what grounds were not so presented, and give your reasons for not presenting them:

All Grounds were not presented because Appellant Counsel

Failed to perfect an appeal on my behalf.

14. Do you have any petition or appeal now pending in any court as to the judgment under attack?
Yes ☐ No ☒

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment attacked herein:

(a) At preliminary hearing Allen N Dayan, 745 West Fourth Ave, Suite
230, Anchorage, Alaska, 99501

(b) At arraignment and plea Same as Above

(c) At trial Same as Above

(d) At sentencing Same as Above

E. Gound Five: INEFFECTIVE ASSISTANCE OF COUNSEL IN FAILING TO OBJECT TO THE OBSTRUCTION OF JUSTICE ENHANCEMENT FOR PERJURY.

Supporting facts: The District Court enhanced my sentence 2 offense levels for perjury for the testimony I did at trial. Counsel should have objected to this enhancement on at least two grounds (1) the enhancement violates the Supreme Courts ruling in Booker because this enhancement was never admitted by movant nor proven to a jury. (2) The District Court failed to make proper factual findings on the record to support enhancement. See; U.S. v Phillips, 210 F.3d 345(5th Cir.2000); Nearly v U.S., 998 F.2d 563(8th Cir.1993)

F. CONVICTION OBTAINED BY THE UNCONSTITUTIONAL FAILURE OF THE GOVERNMENT TO DISCLOSE TO THE MOVANT EVIDENCE FAVORABLE TO THE MOVANT.

Supporting Facts: The Government had in their possession the dashboard videotape from the police officers that show there was no crime committed. This was NEVER given to my attorney and My attorney was made aware of this tape.

G. Ground Seven: SENTENCE VIOLATES SIXTH AMENDMENT

Supporting Facts: The enhancement for perjury was never admitted to me or proven to a jury, therefore it violates the Supreme Courts holding in Booker.

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(e) On appeal Mark Alan Rosenbaum, 4940 Byrd Lane, Suite 100,
Anchorage, Alaska, 99502

(f) In any post-conviction proceeding _____
N/A

(g) On appeal from any adverse ruling in a post-conviction proceeding _____
N/A

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at approximately the same time?

Yes ☐ No ☒

17. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?

Yes ☐ No ☒

(a) If so, give name and location of court which imposed sentence to be served in the future: _____

N/A

(b) Give date and length of the above sentence: _____

N/A

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future?

Yes ☐ No ☒

Wherefore, movant prays that the Court grant him all relief to which he may be entitled in this proceeding.

Wendell Reed Hull

Signature of Attorney (if any)

I declare under penalty of perjury that the foregoing is true and correct. Executed on

10-5-2007

(date)

Wendell Reed Hull

Signature of Movant

Woodrow Hall

15138-006

Federal Correctional Institution

P.O. Box 1000

Butner, N.C. 27509

District Clerk

Federal Building and U.S. Courthouse

Box 4

222 W. 7th Ave.

Anchorage, AK 99513-7564

